

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
AT CINCINNATI

IN RE: Case No. 19-10118

Andrew Michael Parker
Lydia Mary Parker
Debtors.

Chapter 7
Chief Judge Jeffery P. Hopkins

**MOTION OF WELLS FARGO BANK, N.A.
FOR RELIEF FROM THE AUTOMATIC
STAY (PROPERTY LOCATED AT 154 FIRST
STREET, ADDYSTON, OH 45001)**

Wells Fargo Bank, N.A. (the "Movant") moves this Court, under §§ 361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001, 6007 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code. In support of this Motion, the Movant states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. A copy of the General Warranty Deed to the subject property is attached as Exhibit A. On June 29, 2011, Lydia M. Parker obtained a loan from Bank of England in the amount of \$56,250.00. Such loan was evidenced by a promissory note dated June 29, 2011, (the "Note"), a copy of which is attached as Exhibit B.

3. To secure payment of the Note and performance of the other terms contained in it, Lydia M. Parker and Andrew M. Parker executed a Mortgage dated June 29, 2011 (the "Security Agreement"). The Security Agreement granted a lien on the real and/or personal property (the "Collateral") owned by Parker's Management, LLC, an limited liability company, located at 154 First Street, Addyston, OH 45001, and more fully described in the Security Agreement.
4. The lien created by the Security Agreement was duly perfected by the filing of the Security Agreement in the Office of the Hamilton County Recorder on July 14, 2011. A copy of the Security Agreement is attached to this motion as Exhibit C. The lien is the 1st lien on the Collateral.
5. The Note and Security Agreement were transferred as follows:

The Note was transferred from Bank of England to Wells Fargo Bank, N.A. as evidenced by the allonge on the Note. See Exhibit B.

The Note was transferred from Wells Fargo Bank, N.A. to Movant as evidenced by the blank endorsement on the Note. See Exhibit B.

The Mortgage was transferred from Mortgage Electronic Registration Systems, Inc. as nominee for Bank of England to Wells Fargo Bank, N.A. as evidenced by the assignment recorded on 10/05/2018 as evidenced by the document attached hereto as Exhibit D.
6. The value of the Collateral is \$19,700.00. This valuation is based on Debtors' Schedules.
7. As of February 27, 2019, there is due and owing on the Note the outstanding principal and interest balance of \$51,741.06.

8. Other parties known to have an interest in the Collateral are:

Parker's Management, LLC (TitleHolder)

9. The Movant is entitled to relief from the automatic stay under §§ 362(d)(1) and/or 362(d)(2). Debtors have failed to provide adequate protection for the lien held by the Movant. This case is a Chapter 7 wherein debtor is in default for payment on the mortgage loan wherein the last payment was applied to the payment due for the month of July 1, 2018 and there is no equity for the benefit of the estate.
10. This Motion does not seek to affect the rights of the Chapter 7 Trustee.
11. Pursuant to LBR 4001-1(a)(1) Movant has completed the Exhibit and Worksheet attached hereto as Exhibit E.

WHEREFORE, Movant prays for an Order from the Court granting Movant relief from the automatic stay of §362 of the Bankruptcy Code to permit Movant to proceed under law and for such other and further relief to which the Movant may be entitled.

/s/Joel K. Jensen

Joel K. Jensen, Case Attorney
Ohio Supreme Court Reg. No. 0029302
Attorney(s) for Wells Fargo Bank, N.A.
LERNER, SAMPSON & ROTHFUSS
P.O. Box 5480
Cincinnati, OH 45201-5480
(513) 241-3100
(513) 241-4094 Fax
(877) 661-7891 Toll Free Fax
sohbk@lsrlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Relief from Stay was served electronically on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court and by ordinary U.S. Mail on March 1, 2019 addressed to:

Andrew Michael Parker
5804 Rapid Run
Cincinnati, OH 45233

Lydia Mary Parker
5804 Rapid Run
Cincinnati, OH 45233

Parker's Management, LLC - TitleHolder
c/o Lydia Parker
5804 Rapid Run
Cincinnati, OH 45233

/s/Joel K. Jensen

Joel K. Jensen, Case Attorney
Ohio Supreme Court Reg. No. 0029302
Attorney(s) for Wells Fargo Bank, N.A.
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**NOTICE OF FILING OF MOTION OF
WELLS FARGO BANK, N.A. FOR RELIEF
FROM THE AUTOMATIC STAY
(PROPERTY LOCATED AT 154 FIRST
STREET, ADDYSTON, OH 45001)**

OFFICIAL FORM 20A

Wells Fargo Bank, N.A. has filed papers with the Court to obtain relief from the automatic stay.

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion for relief from stay, then within twenty-one (21) days from the date of this notice, you or your attorney must:

- * File with the Court a written request for a hearing, and a written response setting forth the specific grounds explaining your position at:

Cincinnati Bankruptcy Court
U.S. Bankruptcy Court
221 East Fourth Street
Atrium Two, Suite 800
Cincinnati, OH 45202

If you mail your request or response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:

Edward J. Boll III (0072982)
Trial Counsel - Attorney for Movant
LERNER, SAMPSON & ROTHFUSS
P.O. Box 5480
Cincinnati, OH 45202-4007
sohbk@lsrlaw.com

Robert A Goering, Esq., Attorney for Debtor
220 West Third Street
Cincinnati, OH 45202
rob@goering-law.com

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220 West Third Street
Cincinnati, OH 45202
rob@goering-law.com

Parker's Management, LLC - TitleHolder
c/o Lydia Parker
5804 Rapid Run
Cincinnati, OH 45233

Elliott Polaniecki, Trustee
9000 Plainfield Road
Suite B
Cincinnati, OH 45236
elliottp@cinci.rr.com

Office of the U.S. Trustee
Suite 2030
36 East Seventh Street
Cincinnati, OH 45202
ustpregion09.ci.ecf@usdoj.gov

at the addresses listed thereon.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

DATED: March 1, 2019

/s/Joel K. Jensen

Joel K. Jensen, Case Attorney
Ohio Supreme Court Reg. No. 0029302
Attorney(s) for Wells Fargo Bank, N.A.
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I hereby certify that a copy of the foregoing Notice of Filing Motion for Relief from Stay was served electronically on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court and by ordinary U.S. Mail on March 1, 2019 addressed to:

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Cincinnati, OH 45233

Lydia Mary Parker
5804 Rapid Run
Cincinnati, OH 45233

Parker's Management, LLC - TitleHolder
c/o Lydia Parker
5804 Rapid Run
Cincinnati, OH 45233

/s/Joel K. Jensen

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